



PHILIP L. BROWNING  
Director

SHERYL L. SPILLER  
Chief Deputy

May 31, 2011

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**RECOMMENDATION TO EXTEND 40 CALIFORNIA WORK OPPORTUNITY AND  
RESPONSIBILITY TO KIDS, GENERAL RELIEF OPPORTUNITIES FOR WORK, AND GENERAL  
RELIEF DOMESTIC VIOLENCE SUPPORTIVE SERVICES PROGRAM CONTRACTS  
(ALL DISTRICTS - 3 VOTES)**

**SUBJECT**

The Department of Public Social Services (DPSS) requests to extend 40 California Work Opportunity and Responsibility to Kids/Greater Avenues for Independence/General Relief Opportunities for Work/General Relief Domestic Violence (CalWORKs/GAIN/GROW/GR DV) Supportive Services Program contracts listed in Attachment A, through a 12-month extension, effective July 1, 2011 through June 30, 2012.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Delegate authority to the Director of DPSS or his designee to execute amendments to the 40 CalWORKs/GAIN/GROW/GR DV Supportive Services Program contracts listed in Attachment A, through an amendment substantially similar to Attachment B. The amendments will extend the contract term for a period of 12 months effective July 1, 2011 through June 30, 2012, for the provision of DV services in the five Los Angeles County Supervisorial Districts. Attachment A provides the estimated funding allocations for Fiscal Year (FY) 2011-12 for each of the 40 CalWORKs/GAIN/GROW/GR DV Supportive Services Program contracts. The overall 12-month total contract cost for these DV services is \$12,595,129, funded by CalWORKs Single Allocation and net County cost (NCC) funds.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

County of Los Angeles  
**DEPARTMENT OF PUBLIC SOCIAL SERVICES**

12860 CROSSROADS PARKWAY SOUTH • CITY OF INDUSTRY, CALIFORNIA 91746  
Tel (562) 908-8400 • Fax (562) 908-0459

Board of Supervisors

GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

#25 MAY 31, 2011

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

The recommended action will enable DPSS to continue operation of the CalWORKs/GAIN/GROW/GR DV Supportive Services Program; provide the Department sufficient time to initiate and implement a competitive solicitation process for the CalWORKs/GAIN/GROW/GR DV Supportive Services Program contracts; and determine potential program impact due to the State's proposed budget cuts. This program provides case management and legal services to GROW/GR and CalWORKs participants and their minor children who are victims of domestic violence. The program allows for the provision of services that include, but are not limited to: crisis intervention, counseling, transportation, shelter, food, clothing and legal assistance to assist in their safety and survival and move them toward self-sufficiency.

The current CalWORKs/GAIN/GROW/GR DV Supportive Services Program contract term is from July 1, 2008 through June 30, 2011. A 12-month extension of these contracts is needed to allow for the completion of a competitive contract solicitation to result in new contracts effective July 1, 2012.

### **Implementation of Strategic Plan Goals**

The recommended action is consistent with the County's Strategic Plan Goal No. 1: Operational Effectiveness and Goal No. 2: Children, Family and Adult Well-Being: Enhance economic and social outcomes through integrated, cost-effective and client-centered supportive services.

### **FISCAL IMPACT/FINANCING**

The recommended action would result in a cost of \$12,595,129, of which \$12,354,129 would be funded through Single Allocation funding for CalWORKs-GAIN services with no NCC. Services to the GROW/GR population would be funded with \$241,000 of NCC. Sufficient funding is included in the Department's FY 2011-12 Recommended Budget.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On June 24, 2008, your Board delegated authority to the Department of Community and Senior Services (CSS) to execute contracts for the provision of CalWORKs/GAIN/GROW/GR DV Supportive Services for the contract period of three years commencing July 1, 2008 through June 30, 2011 with the provision that annual renewals be contingent upon availability of funding, community needs, and contractor performance.

On May 5, 2009, the Chief Executive Office (CEO) recommended that your Board transfer all DV programs from CSS to DPSS as part of the FY 2009-10 Proposed Budget.

On May 17, 2011, the California Department of Social Services (CDSS) approved the extension of these contracts pursuant to CDSS Purchases of Service Regulation Sections 23-621 and 23-650.

Through this action, the Director of DPSS may execute amendments to the CalWORKs/GAIN/GROW/GR DV Supportive Services Program contracts to extend the current contract term for an additional 12-month period. A copy of all amendments will be provided to the Executive Office of the Board of Supervisors and the CEO, within 10 days of execution.

The amendment to extend the existing contracts is in compliance with all Board and CEO requirements and has been approved as to form by County Counsel.

The amendment will also incorporate an Unspent Funds provision to require

CalWORKs/GAIN/GROW/GR DV contracted agencies to return or reinvest their unspent funds on an annual basis.

**CONTRACTING PROCESS**

No contract solicitation process is needed for this Amendment.

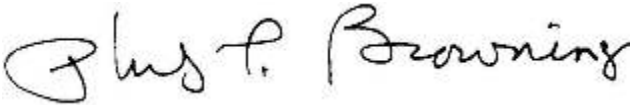
**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommended action will enable DPSS to continue providing CalWORKs/GAIN/GROW/GR DV Supportive Services to approximately 3,000 GROW/GR and CalWORKs participants and their minor children, to enable them to overcome barriers to employment and move them toward self-sufficiency, in all Los Angeles County Supervisorial Districts through its network of 40 DV contractors.

**CONCLUSION**

The Executive Officer, Board of Supervisors, is requested to return one adopted stamped Board letter to the Director of DPSS.

Respectfully submitted,

A handwritten signature in black ink, reading "Philip L. Browning". The signature is written in a cursive, flowing style.

PHILIP L. BROWNING  
Director

PLB:ro

Enclosures

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

**CalWORKs GAIN/GROW/GR DOMESTIC VIOLENCE SUPPORTIVE SERVICES PROGRAM  
FY 2011-2012 FUNDING ALLOCATION**

	<b>Contractor Name</b>	<b>Supervisory District</b>	<b>FY 2011-12 Budget</b>
1	1736 Family Crisis Center	2,4	\$ 1,104,101
2	Antelope Valley Domestic Violence Council	5	\$ 544,431
3	Asian Pacific American Legal Center	1	\$ 107,718
4	Bienvenidos Children's Center	1	\$ 172,727
5	Cambodian Association of America	4	\$ 80,000
6	Center for the Pacific Asian Family	4	\$ 120,924
7	Chicana Service Action Center	1,2	\$ 927,384
8	Child & Family Center	5	\$ 150,000
9	Children's Institute	2	\$ 145,000
10	Community Counseling Services of Los Angeles	1	\$ 301,552
11	Community Legal Services	2,4	\$ 452,202
12	Domestic Abuse Center	3	\$ 150,000
13	East Los Angeles Women's Center	1	\$ 159,361
14	Foothill Family Service	1,5	\$ 335,000
15	Harriet Buhai Center for Family Law	2	\$ 181,849
16	Haven Hills, Inc.	3	\$ 150,000
17	Helpline Youth Counseling, Inc.	4	\$ 126,000
18	House of Ruth, Inc.	1	\$ 286,849
19	Human Services Association	1	\$ 344,733
20	Institute for Multicultural Counseling & Education Services, Inc. (IMCES)	2,5	\$ 588,813
21	Interval House	4	\$ 112,050
22	Jenesse Center, Inc.	2	\$ 543,665
23	Jewish Family Service of Los Angeles	3	\$ 140,000
24	Legal Aid Foundation of Los Angeles	1,2,3,4	\$ 770,590
25	Los Angeles Center for Law and Justice	1	\$ 274,427
26	National Council on Alcohol and Drug Dependency-Long Beach	4	\$ 252,000
27	Neighborhood Legal Services of Los Angeles County	1,3,5	\$ 502,097
28	Office Of Samoan Affairs	2	\$ 132,105
29	Project: Peacemakers, Inc.	2	\$ 320,000
30	Prototypes	2,3	\$ 799,771
31	Rainbow Services, Ltd.	4	\$ 162,000
32	San Fernando Valley Community Mental Health Center, Inc.	3	\$ 300,000
33	Santa Anita Family Service	5	\$ 256,710
34	South Asian Helpline & Referral Agency (SAHARA)	4	\$ 80,000
35	Southern California Alcohol and Drug Programs, Inc.	1	\$ 167,894
36	Su Casa Domestic Abuse Network	4	\$ 144,913
37	Valley Women's Center	3	\$ 121,064
38	WomenShelter of Long Beach	4	\$ 387,900
39	YWCA of Glendale	5	\$ 335,511
40	YWCA San Gabriel Valley-WINGS	5	\$ 363,788
<b>Total Funding Allocation</b>			<b>\$ 12,595,129</b>

**AMENDMENT NUMBER THREE  
TO THE CALWORKS GAIN/GROW/GR DOMESTIC VIOLENCE SUPPORTIVE  
SERVICES PROGRAM CONTRACT NO. DV-CWGR-0809-XX  
BY AND BETWEEN COUNTY OF LOS ANGELES AND**

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**(Agency Name)**

Reference is made to the document entitled "*County of Los Angeles CalWORKs GAIN/GROW/GR Domestic Violence Supportive Services Program Agreement By and Between County of Los Angeles and Agency Name*", dated June 24, 2008, and further identified as Contract # \_\_\_\_\_, Amendment Number One, dated June 26, 2009, Amendment Number Two, dated December 24, 2009 (hereinafter referred to as "Contract").

Effective the day after approval by the Board of Supervisors, the contract is amended as follows:

- I. Part I: UNIQUE TERMS AND CONDITIONS, Section 3.0, Term and Termination, subsection 3.1 is amended to add:

3.1.1 The term of this contract is extended for 12 months commencing on July 1, 2011 and ending on June 30, 2012.

- II. Part I: UNIQUE TERMS AND CONDITIONS, Section 4.0, Contract Sum, subsection 4.3, shall be amended to add:

4.3.1 The Maximum Contract Sum for the 12-month term commencing July 1, 2011 through June 30, 2012 is \$\_\_\_\_\_ as outlined in the attached Statement of Work (Exhibits B-3 & B-4) and Budget (Exhibit C-2).

- III. Part II: STANDARD TERMS AND CONDITIONS, Section 25.0, Contractor's Obligations as a "Business Associate" under Health Insurance Portability & Accountability Act (HIPAA), is amended to read as follows:

25.0 CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH)

The County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Contract, the Contractor provides services to the County and Contractor has access to, and/or creates Protected Health Information as defined in Attachment XIV in order to provide those services.

The County and the Contractor therefore, agree to the terms of Attachment XIV, Contractor's Obligations as a "Business Associate" Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH) (Business Associate Agreement). The revised version is attached hereto and added to the agreement.

- IV. Exhibit B-3, Statement of Work – Case Management Component for FY 2011-12, is attached hereto and added to the agreement.
- V. Exhibit B-4, Statement of Work – Legal Services Component for FY 2011-12, is attached hereto and added to the agreement.
- VI. Exhibit C-2, Budget FY 2011-12, is attached hereto and added to the agreement.
- VII. Attachment XIV: Contractor's Obligations as "Business Associate" Under the Health Insurance Portability and Accountability Act of 1996 and the Health Care Information Technology for Economic and Clinical Health Act are revised as attached and added to the agreement.
- VIII. Section 6.0, INVOICES AND PAYMENTS, Subsection 6.13 is added as follows:

#### 6.13 Unspent Funds

- 6.13.1 At the end of each Fiscal Year and at the end of the contract term, any excess funds and interest the CONTRACTOR has accumulated for the provision of Domestic Violence Services are to be treated as Unspent Funds.
- 6.13.2 At COUNTY's sole discretion, these Unspent Funds may be retained by the CONTRACTOR to fund enhanced program related services, not the services already required to be provided by the Contract. The use of the Unspent Funds must be reasonable and allowable.
- 6.13.3 CONTRACTOR shall be responsible for tracking all Contract payments and expenditures for the program, including submission of the following:
  - 6.13.3.1 An Expenditure Report on Contract revenues versus expenditures for each Fiscal Year must be submitted to DPSS Contract Management Division (CMD) on July 31<sup>st</sup> following the end of each Fiscal Year and no later than one month after the end of the contract term. Any revisions to the Expenditure Report shall be submitted to CMD no later than ten (10) calendar days after submission of the original Report.

- 6.13.3.2 The purpose of the Expenditure Report is to identify the amount of Unspent Funds and its earned interest. The Expenditure Report will be reviewed by the COUNTY.
- 6.13.3.3 The COUNTY reserves the right to change the Expenditure Report reporting periods.
- 6.13.4 A Disposition Plan on how the Unspent Funds and its earned interest will be reinvested must be submitted by CONTRACTOR to COUNTY with the CONTRACTOR's Expenditure Report.
  - 6.13.4.1 Unspent Funds must be used to enhance the already approved program services and must be spent on items above and beyond those items identified in the Contract and the contract budget. The Disposition Plan must include a budget in accordance with the principles included in OMB Circular A-122 ([http:// www. whitehouse. gov/omb/ circulars default](http://www.whitehouse.gov/omb/circulars/default)). The Disposition Plan will be reviewed by the COUNTY and is subject to approval at the COUNTY's sole discretion. Unspent Funds must be used within the Fiscal Year that the Disposition Plan is approved or within a time period determined by the COUNTY.
  - 6.13.4.2 In addition, the Disposition Plan must include a detailed description of the services to be provided, the duration of those services, measurable outcomes, monitoring plan, all reporting and record keeping activities and a budget.
  - 6.13.4.3 If the COUNTY does not approve the CONTRACTOR's Disposition Plan, the COUNTY will request the Unspent Funds and its earned interest be returned to the COUNTY within thirty (30) days after COUNTY's disapproval of the Disposition Plan. The CONTRACTOR must comply with the COUNTY's request.
  - 6.13.4.4 COUNTY has the right to evaluate the effectiveness of services provided under the Disposition Plan. If COUNTY finds the services are not effective, the services under the Disposition Plan may be terminated at COUNTY's sole discretion and CONTRACTOR must return the remaining Unspent Funds and its earned interest to the COUNTY.

6.13.4.5 The CONTRACTOR must submit a Final Disposition Report to the COUNTY within thirty (30) days after the scheduled completion date of an approved Disposition Plan. The Final Disposition Report shall reflect the final status on the completion of all tasks included in the Disposition Plan, as well as all of the final outcomes of said tasks and a final statement on expenditures. Any Unspent Funds remaining after the completion of the approved Disposition Plan must be returned to the County with the Final Disposition Report.

6.13.5 All uses of funds paid to and expended by CONTRACTOR, including Unspent Funds, and other financial transactions related to CONTRACTOR's provision of services under this Contract are subject to review and/or audit by DPSS, COUNTY's Auditor-Controller or its designee.

6.13.6 Notwithstanding any other provision of this Contract, in addition to all other rights to monitor, CONTRACTOR and COUNTY agree that it is the intent of the parties that COUNTY shall have the right to audit any and all use of funds paid to and expended by CONTRACTOR, including Unspent Funds and its earned interest, in order to ensure that all funds are accounted for.

6.13.7 CONTRACTOR agrees to be bound by applicable COUNTY disallowed cost procedures, rules and regulations, and to repay to COUNTY any amount, with its earned interest, which is found to violate the terms of this Contract or applicable provisions.

**All other terms and conditions of the Contract shall remain in full force and effect.**

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**COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC SOCIAL SERVICES**

**IN WITNESS WHEREOF**, the Board of Supervisors of the County of Los Angeles has caused this Amendment Number Three to be subscribed on its behalf by the Director of the Department Public Social Services and the CONTRACTOR has subscribed the same through its authorized officer, as of \_\_\_\_\_ day of \_\_\_\_\_, 2011.

The persons signing on behalf of the CONTRACTOR warrant under penalty of perjury that he or she is authorized to bind CONTRACTOR.

**COUNTY OF LOS ANGELES**

By \_\_\_\_\_  
Philip L. Browning, Director                      Date  
Department of Public Social Services  
County of Los Angeles

**CONTRACTOR**

\_\_\_\_\_  
Contractor's Name (Print or Type)

By \_\_\_\_\_  
Authorized Signature                      Date

Name \_\_\_\_\_  
(Print or Type)

Title \_\_\_\_\_  
(Print or Type)

\_\_\_\_\_  
Contractor's Corporation/LLC

By \_\_\_\_\_  
Authorized Signature                      Date

Name \_\_\_\_\_  
(Print or Type)

Title \_\_\_\_\_  
(Print or Type)

**APPROVED AS TO FORM:**

**BY THE OFFICE OF COUNTY COUNSEL  
ANDREA SHERIDAN ORDIN, COUNTY COUNSEL**

By \_\_\_\_\_  
David Beaudet,                      Date  
Deputy County Counsel

**AGREEMENT  
CONTRACTOR'S OBLIGATIONS AS A  
"BUSINESS ASSOCIATE" UNDER THE HEALTH INSURANCE  
PORTABILITY AND ACCOUNTABILITY ACT OF 1996  
AND THE HEALTH CARE INFORMATION TECHNOLOGY  
FOR ECONOMIC AND CLINICAL HEALTH ACT  
(BUSINESS ASSOCIATE AGREEMENT)**

Under this Agreement, Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate has access to, or creates Protected Health Information in order to provide those Services.

Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (together, the "Privacy and Security Regulations"). The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate ("Business Associate Agreement") in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Further, pursuant to the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005, *title XIII and title IV of Division B*, ("HITECH Act"), effective February 17, 2010, certain provisions of the HIPAA Privacy and Security Regulations apply to Business Associates in the same manner as they apply to Covered Entity and such provisions must be incorporated into the Business Associate Agreement.

This Business Associate Agreement and the following provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Business Associate in compliance with HIPAA's Privacy and Security Regulations and the HITECH Act, as they now exist or may hereafter be amended.

Therefore, the parties agree as follows:

**DEFINITIONS**

- 1.1 "Breach" has the same meaning as the term "breach" in 45 C.F.R. § 164.402.
- 1.2 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.
- 1.3 "Electronic Health Record" has the same meaning as the term "electronic health record" in the HITECH Act, 42 U.S.C. section 17921. Electronic Health Record means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

- 1.4 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission. The term "Electronic Media" draws no distinction between internal and external data, at rest (that is, in storage) as well as during transmission.
- 1.5 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.6 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.7 "Minimum Necessary" refers to the minimum necessary standard in 45 C.F.R. § 162.502 (b) as in effect or as amended.
- 1.8 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164, also referred to as the Privacy Regulations.
- 1.9 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.
- 1.10 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

- 1.11 "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.
- 1.12 "Security Rule" means the Security Standards for the Protection of Electronic Health Information also referred to as the Security Regulations at 45 Code of Federal Regulations (C.F.R.) Part 160 and 164.
- 1.13 "Services" has the same meaning as in the body of this Agreement.
- 1.14 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.
- 1.15 "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.
- 1.16 Terms used, but not otherwise defined in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Regulations and HITECH Act.

## **OBLIGATIONS OF BUSINESS ASSOCIATE**

- 2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:
- (a) shall Use and Disclose Protected Health Information only as necessary to perform the Services, and as provided in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 of this Agreement;
  - (b) shall Disclose Protected Health Information to Covered Entity upon request;
  - (c) may, as necessary, for the proper management and administration of its business or to carry out its legal responsibilities:
    - (i) Use Protected Health Information; and
    - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.
- Business Associate shall not Use or Disclose Protected Health Information for any other purpose or in any manner that would constitute a violation of the Privacy Regulations or the HITECH Act if so Used or Disclosed by Covered Entity.
- 2.2 Prohibited Uses and Disclosures of Protected Health Information. Business Associate:
- (a) shall not Use or Disclose Protected Health Information for fundraising or marketing purposes.
  - (b) shall not disclose Protected Health Information to a health plan for payment or health care operations purposes if the Individual has requested this special restriction and has

paid out of pocket in full for the health care item or service to which the Protected Health Information solely relates.

- (c) shall not directly or indirectly receive payment in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act. This prohibition shall not affect payment by Covered Entity to Business Associate. Covered Entity shall not provide such written consent except upon express approval of the departmental privacy officer and only to the extent permitted by law, including HIPAA and the HITECH Act.

### 2.3 Adequate Safeguards for Protected Health Information. Business Associate:

- (a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Business Associate Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the Minimum Necessary in accordance with the Privacy Regulation's minimum necessary standard as in effect or as amended.
- (b) as to Electronic Protected Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information; effective February 17, 2010, said safeguards shall be in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312, and shall comply with the Security Rule's policies and procedure and documentation requirements.

### 2.4 Reporting Non-Permitted Use or Disclosure and Security Incidents and Breaches of Unsecured Protected Health Information. Business Associate

- (a) shall report to Covered Entity each Use or Disclosure of Protected Health Information that is made by Business Associate, its employees, representatives, Agents, subcontractors, or other parties under Business Associate's control with access to Protected Health Information but which is not specifically permitted by this Business Associate Agreement or otherwise required by law.
- (b) shall report to Covered Entity each Security Incident of which Business Associate becomes aware.
- (c) shall notify Covered Entity of each Breach by Business Associate, its employees, representatives, agents or subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of the Business Associate as determined in accordance with the federal common law of agency.

2.4.1 Immediate Telephonic Report. Except as provided in Section 2.4.3, notification shall be made immediately upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information by telephone call to (562) 940-3335.

2.4.2 Written Report. Except as provided in Section 2.4.3, the initial telephonic notification shall be followed by written notification made without unreasonable delay and in no event later than three (3) business days from the date of discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach by the Business Associate to the Chief Privacy Officer at:

Chief Privacy Officer  
Kenneth Hahn Hall of Administration  
500 West Temple Street  
Suite 525  
Los Angeles, California 90012  
HIPAA@auditor.lacounty.gov  
(213) 974-2166

- (a) The notification required by section 2.4 shall include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used, or Disclosed; and
- (b) The notification required by section 2.4 shall include, to the extent possible, all information required to provide notification to the Individual under 45 C.F.R. 164.404(c), including:
  - (i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
  - (ii) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
  - (iii) Any other details necessary to conduct an assessment of whether there is a risk of harm to the Individual;
  - (iv) Any steps Business Associate believes that the Individual could take to protect him or herself from potential harm resulting from the breach;
  - (v) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to the Individual, and to protect against any further Breaches; and
  - (vi) The name and contact information for the person most knowledge regarding the facts and circumstances of the Breach.

If Business Associate is not able to provide the information specified in section 2.3.2 (a) or (b) at the time of the notification required by section 2.4.2, Business Associate shall provide such information promptly thereafter as such information becomes available.

2.4.3 Request for Delay by Law Enforcement. Business Associate may delay the notification required by section 2.4 if a law enforcement official states to

Business Associate that notification would impede a criminal investigation or cause damage to national security. If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay notification, notice, or posting for the time period specified by the official; if the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay notification, notice, or posting temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in paragraph (a) of this section is submitted during that time.

- 2.5 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement.
- 2.6 Breach Notification. Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information, provide Breach notification for each and every Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or subcontractors, in a manner that permits Covered Entity to comply with its obligations under Subpart D, Notification in the Case of Breach of Unsecured PHI, of the Privacy and Security Regulations, including:
- (a) Notifying each Individual who's Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of such Breach;
  - (b) The notification required by paragraph (a) of this Section 2.6 shall include, to the extent possible:
    - (i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - (ii) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - (iii) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
    - (iv) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
    - (v) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
    - (vi) The notification required by paragraph (a) of this section shall be written in plain language.

Covered Entity, in its sole discretion, may elect to provide the notification required by this Section 2.6, and Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, including costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information.

- 2.7 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.
- 2.8 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.
- 2.9 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.
- 2.10 Accounting of Disclosures. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors, in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and/or the HITECH Act which requires an Accounting of Disclosures of Protected Health Information maintained in an Electronic Health Record for treatment, payment, and health care operations.

*[Optional, to be used when all Uses and Disclosures permitted in order to perform the Services will be for the Covered Entity's payment or health care operations activities. However, Business Associate is not required to provide an Accounting of Disclosures that is necessary to perform the Services because such Disclosures are for either payment or health care operations purposes, or both.]*

Any accounting provided by Business Associate under this Section 2.10 shall include: (a) the date of the Disclosure; (b) the name and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure.



For each Disclosure that could require an accounting under this Section 2.10, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.10 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.

- 2.11 Indemnification. Business Associate shall indemnify, defend, and hold harmless Covered Entity, including its elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, penalties and fines (including regulatory penalties and/or fines), and expenses (including attorney and expert witness fees), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement; Business Associate's obligations under this provision extend to compliance and/or enforcement actions and/or activities, whether formal or informal, of Secretary of the federal Department of Health and Human Services and/or Office for Civil Rights.

### **3.0 OBLIGATION OF COVERED ENTITY**

- 3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

### **4.0 TERM AND TERMINATION**

- 4.1 Term. The term of this Business Associate Agreement shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.
- 4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall:
- (a) Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
  - (b) Immediately terminate this Agreement if a party has breached a material term of this Agreement and cure is not possible; or
  - (c) If neither termination nor cure is feasible, report the violation to the Secretary of the federal Department of Health and Human Services.

#### 4.3 Disposition of Protected Health Information Upon Termination or Expiration.

- (a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

### 5.0 MISCELLANEOUS

- 5.1 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Business Associate Agreement.
- 5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Business Associate Agreement is contrary to another provision of this Agreement, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of this Agreement.
- 5.4 Regulatory References. A reference in this Business Associate Agreement to a section in the Privacy or Security Regulations means the section as in effect or as amended.
- 5.5 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations and other privacy laws governing Protected Health Information